

Plaintiff the State of Texas (“State” or “Texas”) respectfully requests a four-day extension on its deadlines to file Responses to Defendants’ Motions to Dismiss [Dkt. #44–51], which are presently set for March 7, 2022. The events described in this motion create the need for additional time. In support, Texas would respectfully show the Court as follows:

STANDARD OF REVIEW

“When an act may or must be done within a specified time, the court may, for good cause, extend the time: (A) with or without motion if . . . a request is made before[] the original time or its extension expires.”¹ The good cause standard requires “the party seeking relief to show that the deadlines cannot reasonably be met despite the diligence of the party needing the extension.”² “Rule 6(b)(1)(A) gives the court wide discretion to grant a request for additional time that is made prior to the expiration of the period originally prescribed or prior to the expiration of the period as extended by a previous order.”³ “[A]n application for extension of time under Rule 6(b)(1)(A) normally will be granted in the absence of bad faith on the part of the party seeking relief or prejudice to the adverse party.”⁴

¹ FED. R. CIV. P. 6(b)(1); *see also* FED. R. CIV. P. 16(b)(4) (applying the same good cause standard for modifications to a schedule).

² *S & W Enters., L.L.C. v. Southtrust Bank of Ala., NA*, 315 F.3d 533, 536 (5th Cir. 2003).

³ Charles Alan Wright & Arthur R. Miller, 4B Fed. Prac. & Proc. Civ. § 1165 (4th ed. April 2017).

⁴ *Id.*

ARGUMENTS & AUTHORITIES

The State's Responses to Defendants' Motions to Dismiss are currently due March 7, 2022. Texas seeks a four-day extension, creating a new deadline of March 11, 2022. Defendants are unopposed to this motion for extension of time.

Since February 14th, in addition to supervising all matters currently in litigation under the TMFPA as Chief of the Civil Medicaid Fraud Division, undersigned lead counsel Raymond Winter has been substantially occupied in the preparation of witnesses, briefing and expedited discovery leading up to a February 24th temporary injunction hearing in *Brave Hearts Children's Center v. Texas Health and Human Services Commission*, Cause no. 2022-05866, pending in the 164th District Court in Harris County, Texas. The February 24th hearing in this matter, in which the State was arguing on behalf of the health and safety of Texas foster children, lasted throughout the day, and was continued until the morning of March 4th. Mr. Winter expects the hearing on March 4th to last throughout that day as well.

Mr. Winter is also the lead negotiator for Texas in multiple sealed TMFPA matters which have been under intensive negotiation during the last three weeks. These negotiations have required the exchange of multiple settlement instruments every several days, as well as the organization of dozens of conferences among

counsel for all parties. The resolution of these matters is anticipated to return well over one hundred million Medicaid dollars to Texas taxpayers.

Since Defendants filed their Motions to Dismiss, undersigned counsel, Amy Hilton, has been consumed with preparing for a jury trial set to begin March 7, 2022 in *Nikolova v. University of Texas at Austin*, Civ. A. No. 1:19-cv-19-877, pending in the United States District Court for the Western District of Texas, in addition to completing discovery in another case pending in the Western District, *Leykum v. University of Texas Health Science Center at San Antonio*, Civ. A. No. 5:20-cv-00478.

Since February 14, 2022, undersigned counsel, Halie Daniels, attended a Motion for Summary Judgment hearing, on February 22, 2022, in *Dorothy Tarver v. Texas Health and Human Services*, Cause No. 4:19-CV-04464, pending in the United States District Court for the Southern District, Houston Division; filed a Response to a Motion to Dismiss in *Joseph Blessett v. State of Texas et al.*, Cause No. 3:22-CV-00009, pending in the United States District Court for the Southern District of Texas, Galveston Division, on February 24, 2022; and is currently preparing for a Plea to the Jurisdiction hearing scheduled for Wednesday March 9, 2022, in *Robert Koepke v. The State of Texas Legislature*, Cause No. 2021-CI-25237, pending in the 150th district of Bexar County.

The extension is not sought for delay, and no party will be prejudiced if it is granted.

PRAYER

The State respectfully submits that the circumstances described in this motion constitute good cause. As such, Texas respectfully asks the Court for a four-day extension on its deadline to file its Responses to Defendants' Motions to Dismiss [Dkt. #44–51]. If granted, Texas's deadline would be moved from March 7, 2022, to March 11, 2022. This motion is unopposed.

Dated: March 1, 2022

Respectfully submitted,

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CERTIFICATE OF CONFERENCE

I certify that on March 1, 2022, I conferred with Tirzah Loller, counsel for Defendants, and they indicated Defendants are unopposed to this motion.

/s/ Raymond C. Winter

Raymond C. Winter

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing document was filed electronically via CM/ECF on March 1, 2022, causing electronic service on all counsel of record.

/s/ Raymond C. Winter

Raymond C. Winter